IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR
LPA No. 235/2007

Pradeep Jagannath Mahule vs. Ramratan Ramcharan Mahule and others.

Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders.

CORAM : A.P. Lavande & R.V.More,JJ
DATE : 18.10.2007

Heard Mr. Gulhane, learned counsel for the appellant.

The appellant takes exception to the order dated 18.11.2005 passed by the learned Single Judge dismissing the petition filed against the order dated 4.1.2003 passed by the Civil Judge, Sr. Dn., Yavatmal in Spl.C.S. No. 49/80 by which the learned trial court rejected the application filed by the appellant who is the original defendant in the said suit. Initially, the trial court framed 27 issues but, however, on 31.1.2001 the trial court recast the issues suo motu and in all 11 issues have been re-framed.

Mr. Gulhane, the learned counsel for the appellant submits that the learned trial Court has not correctly re-framed the issues and the learned trial court ought to have framed separate issues on the basis of the pleadings of the

parties.

Having heard the learned counsel for the appellant, we find no ground to interfere with the impugned order. In our opinion, the issues recast by the trial court have been correctly recast having regard to the pleadings of the parties. In our opinion, the learned Single Judge in the impugned order has rightly observed that the trial court has correctly re-framed the issues and, therefore, no interference is called for against the order passed by the trial court.

Needless to observe that the parties would be entitled to lead evidence and cross-examine the witnesses examined by the opposite side having regard to the pleadings and the issues framed by the trial court.

With the above observations, the appeal stands dismissed.

Judge **Judge**

patle